

# NOTICE OF INTENT

## Department of Wildlife and Fisheries Wildlife and Fisheries Commission

### Freshwater Mussel Harvest (LAC 76:VII.161)

The secretary of the Department of Wildlife and Fisheries does hereby give notice of the intent to amend a rule to establish freshwater mussel harvest regulations.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 1. Freshwater Sports and Commercial Fishing**

#### **§161. Freshwater Mussel Harvest**

##### **A. Permits**

1. In addition to a commercial fishing license, all mussel harvesters must obtain a mussel harvester's permit issued by the department prior to initiation of harvesting. No person shall harvest or participate in the harvest of freshwater mussels unless that person is in possession of proper licenses and permits.

2. The secretary of the department shall have the authority to limit the number of mussel harvester permits, cease issuance of new permits, or close the season entirely if it is deemed necessary to protect the mussel resource.

3. In addition to a wholesale/retail dealer's license, all mussel buyers must obtain a mussel buyer's permit issued by the department. The buyer shall file a surety bond by a surety company licensed to do business in this state in the sum of \$5,000 with the department at the time of license purchase. Bond shall be forfeited if buyer fails to adhere to all rules and regulations and reporting requirements.

4. Mussel harvester and buyer permits shall not be issued to any applicant who has been convicted of any mussel-related offense in any state within the United States within the past five years.

##### **B. Fees**

1. An annual permit fee of \$100 for resident mussel fishermen and \$1,000 for nonresident mussel fishermen will accompany the permit application. These fees will be applicable for one calendar year. If the permit application is disapproved, the fees will be refunded to the applicant.

2. An annual permit fee of \$150 for resident mussel buyers and \$600 for nonresident mussel buyers will accompany the permit application. These fees will be applicable for one calendar year. If the permit application is disapproved, the fees will be refunded to the applicant.

##### **C. Gear**

1. Mussels shall be harvested by hand only, with or without underwater breathing apparatus. All divers must display a proper dive flag. Mussel harvest activities shall not impede boating activities or navigation.

2. A mussel harvester on state waters, and in possession of mussel harvesting gear, must be properly licensed and permitted. All persons aboard any vessel possessing mussel harvesting gear in state waters must be properly licensed and permitted.

##### **D. Species for Harvest**

1. Only the following taxa may be legally harvested:

washboard	<i>Megaolonaia nervosa</i>
pimpleback	<i>Quadrula spp.</i>
three ridge	<i>Amblema plicata</i>
bleufer	<i>Potamilus (Proptera) purpuratus</i>
Asian clam	<i>Corbicula fluminea</i>

2. Only specimens equal to or larger than the following minimum sizes shall be harvested:

washboard	4 inches
three ridge and bleufer	3 inches
pimpleback	2 3/4 inches
Asian clam	no size limit

Minimum size will be measured by passing the specimen through a ring or appropriate circular measuring device so designed as to allow undersized mussels to pass through the opening. There is no allowance for undersized shell. All mussels must be sized (graded) immediately after each dive and undersized shell returned to the mussel bed before the harvester moves his boat or begins another dive. All sacked mussels shall be removed from the water daily during daylight hours only.

3. The zebra mussel (*Dreissena polymorpha*), an introduced nuisance aquatic species, has the potential to severely clog industrial and public water intakes, deplete nutrients and consume huge amounts of dissolved oxygen in state waterbodies, and potentially decimate endemic freshwater mussel populations. Therefore,

the Department of Wildlife and Fisheries strongly encourages actions to prevent the spread of zebra mussels.

E. Timing of Harvest

1. Mussels may be harvested from May 20 through October 31 between official sunrise and official sunset; except that harvest of mussels will be closed on national holidays and Saturdays and Sundays of each week.

2. Possession of mussels between official sunset and official sunrise in any state waterbody is prohibited.

F. Areas Open to Harvest

1. Unless otherwise stated, all publicly owned water bottoms in Louisiana outside of officially recognized saltwater areas (R.S. 56:322(A) and 322(B)) are open to harvest.

2. Because of the presence of threatened or endangered species of mussels, mussel harvest and possession of mussels is prohibited in the following areas:

a. Amite River and any tributary within one-half mile of the main channel of the Amite River from the junction with Bayou Manchac to the Mississippi state line;

b. all of Rapides and Grant Parishes, including all boundary waters of both parishes, except the main channel of the Red River;

c. Bayou Bartholomew and any tributary within one-half mile of the main channel of Bayou Bartholomew in Morehouse Parish, from the Arkansas-Louisiana state line to its confluence with the Ouachita River;

d. Rodney Lake (Tensas Parish).

3. Other areas closed to commercial mussel harvest include:

a. Tensas National Wildlife Refuge, including all border waters.

b. Cocodrie Bayou National Wildlife Refuge including all border waters.

c. Fort Polk Military Reservation.

d. Peason Ridge Military Reservation.

e. Bayou Macon and any tributary within one-half mile of Bayou Macon from La. Highway 2 north to the Louisiana/Arkansas state line.

f. Lake Bruin

g. Additional areas may be closed by the secretary of the department if deemed necessary to protect local mussel populations.

h. Permits issued by the Wildlife Division are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou Wildlife Management Areas (WMA's). Commercial fishing is prohibited on Salvador and Ouachita WMA's.

G. Reporting

1. Commercial mussel buyers must compute and pay a severance tax of 5 percent of the revenue derived from the sale of whole freshwater mussels on forms furnished by the Department of Wildlife and Fisheries (R.S. 56:450(A) and (C) and 56:451 and 452). Mussel buyers will ensure that severance tax forms are filled out completely prior to submission to the department; failure to do so will result in a Class 3 violation and revocation of mussel buyers permits. Buyers must retain such receipts for inspection by the department for a period of not less than two years. Written notification of changes and reporting requirements sent by the department to commercial buyers shall become part of the buyer's permit and must be maintained by the buyer along with the permit. Shipping bills of lading must also accompany severance tax receipts and payments each month. All severance tax report forms and payments must be received by the department no later than the fifteenth day of the month following the month of severance.

2. Harvesters are required to submit monthly reports on forms furnished by the department. These reports are due no later than the fifteenth day of the month following the month of harvest. Failure to report will result in a Class 3 violation and revocation of the mussel harvesters permits.

3. Mussel buyers must contact the department either in the region where they will be conducting buying operations, or at the department's toll-free telephone number, and provide information as to which site these operations are to be set up. This notification is to be made on the day previous to setting up these operations. The buyer must also notify the department within 24 hours when buying activities at that location have been completed. Mussel buyers may not conduct buying activities outside of designated and/or approved sites.

4. Mussel buyers are limited to setting up buying operations at department approved sites in or nearby to these cities:

a. Bogalusa

b. Columbia

c. Coushatta

d. Delhi

e. Kinder

f. Ferriday

g. Leesville

h. Livingston

- i. Minden
- j. Port Barre
- k. Ramah
- l. Simmesport
- m. Tioga

Additional buyer's sites may be set up at department discretion to facilitate harvest.

#### H. Special Restrictions

1. Meats shall not be used or sold for human consumption.
2. Mussels shall be transferred whole (unopened with meat) from the collection site directly to an in-state buyer for processing. Whole mussels may not be taken out of state. The harvest of dead shell is strictly prohibited.
3. Buyer must open mussels and render meats unsuitable for human consumption in state, then dispose of meats as per Department of Environmental Quality regulations for disposal of solid waste.
4. Mussel buyers in the act of transporting mussels in-state must have legibly printed letters stating "MUSSELS" no less than 4 inches in height on both sides of all transport vehicles and vessels.
5. Mussels or shells collected outside of Louisiana by a resident or nonresident mussel harvester shall not be sold in Louisiana. Mussel buyers shall not purchase or possess mussels or shells taken from waters outside of Louisiana.

I. Penalties. Failure to abide by the above rules shall result in revocation of permit and forfeiture of future permits for a five-year period after which issuance or denial of a permit will be at the discretion of the secretary of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Jr., Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Friday, March 1, 1996.

Joe L. Herring  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Freshwater Mussel Harvest

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amended rule will have no implementation costs. Enforcement of the proposed rule and administration of permits will be carried out using existing staff.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimates of revenues generated by sales of license and permits have been previously generated with publication of the latest amended rule (LR 21:193, February 1995). Additional areas closed to mussel harvest could decrease severance tax revenues on a short-term basis by approximately 5 percent.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A small number of mussel harvesters may be directly affected by the proposed action. Closure of additional state waterbodies to mussel harvesting activities may cause some individuals who have concentrated their efforts in those closed areas to redirect their efforts elsewhere. Costs associated with searching for new harvesting areas may increase by an indeterminate amount under the proposed action. No other additional changes are anticipated in workload adjustments or additional paperwork from the proposed action. Those individuals who may experience increases in costs due to additional state waterbody closures may also experience a decrease in short-term income due to the increase in costs associated with searching for new harvest areas.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant changes in competition and employment in the public or private sector is anticipated by the proposed action.

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